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Attorneys for Plaintiffs

JONATHAN WAYNE BOTTEN, SR.,

TANJA DUDEK-BOTTEN, ANNABELLE BOTTEN,

AND J.B.

**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN WAYNE BOTTEN, SR.;

TANJA DUDEK-BOTTEN;

ANNABELLE BOTTEN; and J.B., a

minor, by and through his guardian

JONATHAN WAYNE BOTTEN, SR.,

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY

OF SAN BERNARDINO; ISAIAH

KEE; MICHAEL BLACKWOOD;

BERNARDO RUBALCAVA; ROBERT

VACCARI; JAKE ADAMS; and DOES

1-10, inclusive,

Defendants.

Case No. 5:23-cv-00257-KK-SHK

Honorable Kenly Kiya Kato

**JOINT STATUS REPORT RE:
APPEAL AND PRETRIAL AND
TRIAL DATES**

1 **TO THE HONORABLE COURT:**

2 Pursuant to the Court’s June 25, 2025 Notice and Order (Dkt. No. 123),
3 Plaintiffs Jonathan Wayne Botten, Sr., Tanja Dudek-Botten, Annabelle Botten, and
4 J.B., a minor by and through his guardian *ad litem* Jonathan Wayne Botten, Sr.
5 (“Plaintiffs”) and Defendants Isaiah Kee and Bernardo Rubalcava (“Defendants”)
6 (collectively, “the Parties”), hereby submit this Joint Status Report regarding how the
7 Parties wish to proceed with this matter in light of Defendants’ interlocutory appeal.

8 On June 4, 2025, before any pretrial filings were due, Defendants filed a
9 Notice of Appeal to the Ninth Circuit (Dkt. No. 121) on the denial of qualified
10 immunity on Plaintiffs’ Fourth Amendment claim under 42 U.S.C. § 1983. It is the
11 Parties’ understanding, and Defendants’ position, that an interlocutory appeal from
12 the denial of qualified immunity divests the district court of jurisdiction to proceed
13 with trial. *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985); *Chuman v. Wright*, 960
14 F.2d 104, 105 (9th Cir. 1992). Accordingly, it is the Parties’ understanding that the
15 Court is currently without jurisdiction, and the Parties cannot proceed with the Final
16 Pretrial Conference and Trial.

17 However, it is the Plaintiffs’ desire to avoid protracted delay in proceeding
18 with trial. Accordingly, the Parties have reached a tentative agreement whereby the
19 Plaintiffs will dismiss with prejudice their Fourth Amendment claim in exchange for
20 Defendants’ dismissal of their interlocutory appeal without prejudice to
21 reinstatement. Plaintiffs have also conveyed to Defendants that after the dismissal of
22 their Fourth Amendment claim, they intend to request that the Court exercise
23 supplemental jurisdiction over the remaining state law claims and request a new trial
24 date within the next few months. Defendants have indicated that they will not oppose
25 a request for the Court to exercise supplemental jurisdiction over the state law claims
26 and are in agreement with finding a new trial date within the next few months should
27 the Court exercise its discretion to exercise supplemental jurisdiction over the
28 remaining state law claims.

1 The Parties are working on the terms of the stipulation and anticipate that they
2 will file a formal stipulation for dismissal, with prejudice, of Plaintiffs' Fourth
3 Amendment claim by the end of next week and Defendants will file their dismissal of
4 the interlocutory appeal within the same time frame. Plaintiffs will then proceed with
5 filing a request for the Court to exercise jurisdiction over Plaintiffs' remaining state
6 law claims and to reset the trial date and all related pretrial dates.

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8 Respectfully Submitted,

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10 DATED: July 1, 2025

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11
12 Bv /s/ Hang D. Le

13 Dale K. Galipo
14 Hang D. Le
Attorneys for Plaintiffs

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16
17 DATED: July 1, 2025

18 ROB BONTA
Attorney General of California
19 NORMAND D. MORRISON
Supervising Deputy Attorney General

20
21 /s/ *Diana Esquivel**

22 DIANA ESQUIVEL
Deputy Attorney General
23 *Attorneys for Defendants Kee and Rubalcava*

24
25 *The filer, Hang D. Le, hereby attests that all other signatories listed, and on whose
26 behalf the filing is submitted, concur with the filing's content and have authorized
27 the filing.
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